

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**MOSE LEE SUDDUTH, JR.**

**PLAINTIFF**

**VS.**

**CAUSE NO. 1:18-CV-051-SA-DAS**

**LOWNDES COUNTY, MISSISSIPPI; ROGER  
COLEMAN; and NORTH ATLANTIC SPECIALTY  
COMPANY**

**DEFENDANTS**

**MOTION TO DISMISS FEDERAL CLAIMS AND/OR  
GRANT JUDGMENT ON THE PLEADINGS**

**NOW COMES DEFENDANT LOWNDES COUNTY**, by Counsel, and respectfully moves this Court for a finding of dismissal and/or judgment on the pleadings as to claims arising under federal law, to-wit:

**1) PREMISE:** This law suit arises from an incident between Defendant Coleman and Plaintiff Sudduth which is depicted on video. Sudduth rudely burst past Coleman in civilian clothes brushing off the attempt to secure compliance stating "*I'm a lawyer*" as if special status applied to him. When Coleman, a private security officer, insisted on doing his job, it was revealed that Sudduth was carrying a knife. When Sudduth refused to leave without his knife, Coleman removed him by force. It is clear from the face of the Plaintiff's Complaint that Federal Claims are constitutionally deficient.

First, Plaintiff Sudduth's Complaint [Doc. 1] at ¶20 alleges a legal duty that does not exist:

20. LOWNDES COUNTY, MISSISSIPPI has a Constitutional duty to properly hire, train, supervise, implement and educate as to policy guidelines, and to employ proper procedures and practices for court security officers who appear to be "clothed" with

law enforcement powers in order to insure that no persons are denied rights guaranteed under the United States Constitution.

Second, alleging not one single prior incident of this nature and citing no negative history from Defendant Coleman, Plaintiff Sudduth's Complaint has not alleged sufficient facts as required by the Fifth Circuit for official capacity liability. This is nothing more than an attempt to argue *respondeat superior* in a §1983 joint state action claim for the private acts of an independent contractor.

**2) BRIEFING:** In accord with Uniform Local Rule 7(b), this Defendant is filing its supporting authorities herewith.

**NOW, THEREFORE**, this Defendant respectfully moves this Court to dismiss the instant Complaint with prejudice pursuant to Rule 12(b)(6) & (c), *Fed. R. Civ. Proc.*

**RESPECTFULLY SUBMITTED** this the 30<sup>th</sup> day of April, 2018.

**JACKS | GRIFFITH | LUCIANO, P.A.**

By: /s/ *Daniel J. Griffith*  
Daniel J. Griffith, MS Bar No. 8366  
Attorney for Defendant Lowndes County

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**CERTIFICATE OF SERVICE**

I, Daniel J. Griffith, attorney of record for Defendant Lowndes County, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *MOTION TO DISMISS FEDERAL CLAIMS AND/OR GRANT JUDGMENT ON THE PLEADINGS* to be delivered by the ECF Filing System which gave notice to the following:

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**Attorney for Plaintiff**

**DATED** this 30<sup>th</sup> day of April, 2018.

\_\_\_\_\_  
/s/ *Daniel J. Griffith*  
Daniel J. Griffith